

Maiden Specialty Insurance Company, Steadfast Insurance Company, and International Insurance Company of Hannover SE, several of the Defendants in this action (collectively, along with the other Defendants, “Insurers”).

2. I am familiar with the proceedings in this matter and submit this declaration in support of Insurers’ Motion *in Limine* No. 3 to Preclude Non-Relevant/Inflammatory References to Issues Unrelated to Amtrak’s Claims Under the Policies.

3. Attached as Exhibit A is a true and correct copy of an excerpt of the transcript from the February 3, 2015 hearing before the Court.

Dated: New York, New York
June 30, 2015

Costantino P. Simano

Exhibit A

F23LAMTA

Argument

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x

4 NATIONAL RAILROAD PASSENGER
5 CORPORATION,

6 Plaintiff,

7 v.

14 CV 7510 (JSR)

8 ARCH SPECIALTY INSURANCE, et
9 al.,

10 Defendants.

11 -----x

New York, N.Y.
February 3, 2015
2:32 p.m.

12 Before:

13 HON. JED S. RAKOFF,

14 District Judge

15 APPEARANCES

16 ANDERSON KILL LLP
17 Attorneys for Plaintiff
18 BY: RHONDA D. ORIN
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23 Attorneys for Defendants Partner Re, et al.
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TIMOTHY CHURCH

SOUTHERN DISTRICT REPORTERS, P.C.

F23LAMTA

Argument

1 government and a lot of the disadvantages of government. It is
2 responsible, for example, under FOIA as having government
3 disclosure obligations. It doesn't have rights to funds that
4 are available to government entity railroads through FEMA, for
5 example. FEMA has a government way of providing financing.
6 That's not available to Amtrak because it's a private
7 for-profit corporation.

8 Amtrak has extraordinary safety issues in its daily
9 operations. It has the public trust in its responsibility.
10 And it has extremely important national security issues,
11 Department of Homeland Security issues. These tunnels have
12 always been of concern dating back to World War II when there
13 was concern about damage to the tunnels back then.

14 THE COURT: While all that you say is interesting, it
15 is, I think, to be frank, irrelevant. So I think on this
16 motion the question is, is your interpretation of the various
17 definitions of flood the only reasonable interpretation as a
18 matter of law. Yes?

19 MS. ORIN: Yes.

20 THE COURT: Okay. So let's talk about that.

21 MS. ORIN: In that context, your Honor, the reason our
22 interpretation is the only reasonable interpretation is the
23 context of these policies, this insurance program, and what was
24 going on in the insurance industry at the time these policies
25 were purchased.